

## **Proposal: Rule 951, California Rules of Court:**

- Business and Professions Code section 6086.10, subdivision (c) gives the State Bar the authority to grant a member relief, in whole or in part, from an order assessing disciplinary costs to grant an extension to time to pay those costs. For the most part, the Board of Governors has delegated that authority to the State Bar Court pursuant to rule 282 of the Rules of Procedure. The proposed addition of subsection (g) of rule 951 would directly delegate the statutory authority granted under 6086.10, subdivision (c) to the State Bar Court. In addition, it would allow the State Bar Court to grant appropriate disciplinary costs relief even after the member has been suspended from practice for failure to pay those disciplinary costs.<sup>1</sup>
- The proposed addition of subsection (h) of rule 951 provides a mechanism for the State Bar to obtain the money judgment for disciplinary costs and/or CSF) payments and assessments. Proposed subsection (h) provides that the State Bar may file a certified copy of a final disciplinary order or decision imposing disciplinary costs or ordering reimbursement of the CSF, along with a certified copy of the cost certificate and record of CSF payment, with the clerk of the superior court of any county. Proposed subsection (h) further provides that the clerk of the superior court shall immediately enter judgment in conformity with the order and certificate of costs and/or record of CSF payment. Finally, proposed subsection (h) requires that all motions for the compromise of any judgment entered pursuant to the rule shall be filed in State Bar Court (rather than in the superior court).

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<sup>1</sup> Rule 282 of the Rules of Procedure currently divests the State Bar Court of jurisdiction to consider motions for relief from disciplinary costs after (a) the earliest date upon which a member's actual suspension can be terminated; or (b) 30 days prior to the date set by the Board of Governors as the effective date for the suspension of members who have failed to pay their annual membership fees. After the expiration of these time periods, current rule 282(b)(4) provides that only the Board of Governors can grant relief from costs or an extension to pay those costs.

Proposed Amendments to  
Rule 951 . Authority of the State Bar Court  
(Deletions are indicated by ~~Strikeout~~. Additions are indicated by ***Bold, Underline, Italics***)

(a) [Conviction Proceedings]

The State Bar Court shall exercise statutory powers pursuant to Business and Professions Code sections 6101 and 6102 with respect to the discipline of attorneys convicted of crimes. (See Bus. & Prof. Code section 6087.) For purposes of this rule, a judgment of conviction is deemed final when the availability of appeal has been exhausted and the time for filing a petition for certiorari in the United States Supreme Court on direct review of the judgment of conviction has elapsed and no petition has been filed, or if filed the petition has been denied or the judgment of conviction has been affirmed. The State Bar Court shall impose or recommend discipline in conviction matters as in other disciplinary proceedings. The power conferred upon the State Bar Court by this rule includes, but is not limited to, the power to place attorneys on interim suspension as authorized by subdivisions (a) and (b) of section 6102, and the power to vacate, delay the effective date of, and temporarily stay the effect of such orders.

(b) [Professional Responsibility Examination]

The State Bar Court shall have the power to extend the time within which a member of the State Bar must take and pass a professional responsibility examination, to suspend a member for failing to take and pass such examination, and to vacate a member's suspension for failing to take and pass such examination.

(c) [Probation]

The State Bar Court shall have the power, for good cause, to approve stipulations between the member and the Chief Trial Counsel for modification of the terms of a member's probation and to make corrections and minor modifications to the terms of a member's disciplinary probation. The order of the State Bar Court shall be filed promptly with the Clerk of the Supreme Court.

(d) [Rule 955 Compliance]

The State Bar Court shall have the power, for good cause, to extend the time within which a member must comply with the provisions of California Rules of Court, rule 955.

(e) [Commencement of Suspension]

The State Bar Court shall have the power, for good cause, to delay temporarily the effective date of, or temporarily stay the effect of, an order for a member's disciplinary suspension from practice.

(f) [Readmission and Reinstatement]

Applications for readmission or reinstatement shall, in the first instance, be filed and heard by the State Bar Court. Applicants for readmission or reinstatement shall (1) pass a professional responsibility examination, (2) establish their rehabilitation and present moral qualifications for readmission, and (3) establish present ability and learning in the general law. The State Bar may require applicants who fail to make the affirmative showing of sufficient present learning in the general law to demonstrate such learning by passing one of the General Examinations required of applicants for admission.

(g)

~~Nothing in these rules shall be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the lawyer discipline and admissions system.~~ *The State Bar Court shall exercise statutory powers pursuant to Business and Professions Code section 6086.10, subdivision (c). Application by a member who has been suspended by the Supreme Court for failure to pay discipline costs that have been added to his or her membership fees pursuant to Business and Professions Code section 6140.7 and who seeks relief from or a modification of the amount of discipline costs shall be filed and heard in the State Bar Court.*

*(h) Pursuant to Business and Professions Code sections 6086.10, subdivision (a) and 6140.7, subdivision (d), the State Bar may file a certified copy of a final disciplinary order or decision imposing discipline costs or ordering the reimbursement of the Client Security Fund for payments and assessments made as a result of the member's misconduct, along with a certified copy of the certificate of costs and/or record of Client Security Fund payments and costs, with the clerk of the superior court of any county. Judgment shall be entered immediately by the clerk in conformity with the order and certificate of costs and CSF payments and assessments. Motions for the compromise of any judgment entered pursuant to this rule shall be filed and heard in the State Bar Court.*

~~(g)~~ [Inherent Power of Supreme Court]

Nothing in these rules shall be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the lawyer discipline and admissions system. (Adopted, effective December 1, 1990. Amended, effective April 1, 1996.)